

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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SPHERE, LLC,

Plaintiff,

v.

PAWNEE LEASING CORPORATION, *et al.*,

Defendants.

Case No. 3:23-cv-00176-MMD-CBL

ORDER

**I. SUMMARY**

Plaintiff Sphere, LLC (“Sphere”) holds title to real property located at 5444 Spanish Moss Court in Sparks, Nevada (“Property”) and brings this action against Defendants Donald Clark<sup>1</sup>, from whom Sphere acquired title, and Pawnee Leasing Corporation (“Pawnee”), which asserts that it holds a valid judgment lien attached to the Property. (ECF No. 1 (“Complaint”).) Before the Court is Defendant Pawnee’s motion to dismiss Plaintiff’s claim for quiet title and declaratory relief. (ECF No. 12 (“Motion”).)<sup>2</sup> As further explained below, the Court will deny the Motion.

**II. BACKGROUND<sup>3</sup>**

On November 25, 2021, Plaintiff Sphere entered into an agreement with Donald Clark to purchase real property in the Vista Ridge neighborhood of Sparks, Nevada. (ECF No. 1 at 3.) During an escrow period, Clark completed an owner’s affidavit disclaiming any debts, liens, or other off-record claims against the Property. (*Id.*) The sale closed on December 17, 2021, at which time Sphere paid Clark the purchase price

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<sup>1</sup>Defendant Clark filed a notice of bankruptcy (ECF No. 28) and this action is stayed with respect to the claims against him.

<sup>2</sup>Plaintiff filed a response (ECF No. 16) and Defendant filed a reply (ECF No. 23).

<sup>3</sup>The following facts are adapted from the Complaint.

1 of \$560,000 and Clark conveyed title to the Property to Sphere through a grant, bargain,  
2 and sale deed. (*Id.*) The deed was recorded in the Official Records of Washoe County.  
3 (*Id.*)

4 After this conveyance and recording, Sphere received notice from Defendant  
5 Pawnee that Pawnee holds a default judgment against Clark, which it recorded in the  
6 Official Records of Washoe County on April 9, 2021—eight months before the sale of  
7 the Property to Sphere. (*Id.* at 4.) It is undisputed that at the time Pawnee recorded the  
8 judgment in April, it did not record an additional “affidavit of judgment” as described in  
9 NRS § 17.150(4). (*Id.* at 4-5.) The recorded judgment itself did not identify property  
10 information, such as parcel number or address. (*Id.*) It identified the judgment debtor as  
11 “Donald Clark, Jr.,” rather than as “Donald Clark,” as he was known at the sale of the  
12 Property. (*Id.* at 5, 6-7.) It did not include other debtor information, such as the last four  
13 digits of Clark’s driver’s license or social security number. (*Id.* at 5.) Finally, the  
14 judgment did not include a statement that the judgment creditor had confirmed Clark  
15 was the legal owner of the Property. (ECF Nos. 1 at 5, 16 at 11.)

16 Sphere alleges that on October 20, 2022 Pawnee attempted to fix its mistake in  
17 failing to record an affidavit along with the judgment in April 2021. (ECF No. 1 at 6.) It  
18 again recorded the same default judgment in the Washoe County Records. (*Id.*) This  
19 time, however, Pawnee also recorded an attorney declaration of judgment. (*Id.*) Sphere  
20 alleges that Pawnee has since threatened to commence foreclosure of the Property,  
21 maintaining that its lien is valid against Sphere. (*Id.*)

22 Pawnee now moves to dismiss the single claim<sup>4</sup> for quiet title and declaratory  
23 relief brought against it in the Complaint for insufficient pleading under Federal Rule of  
24 Civil Procedure 12(b)(6). (ECF No. 12.) Plaintiff seeks relief under the Nevada Uniform  
25 Declaratory Judgment Act, NRS § 30.010 *et seq.*, and NRS § 40.010, and asks the  
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27 <sup>4</sup>Sphere alleges seven causes of action. Six of those claims are solely against  
28 Defendant Clark. (ECF No. 1.)

1 Court to issue a judgment declaring: (1) the April 2021 recording did not create a lien on  
 2 the Property because Pawnee failed to record the affidavit of judgment mandated by  
 3 NRS § 17.150(4); (2) the October 2022 recording did not create a lien on the Property  
 4 because Clark did not own the Property at the time of the recording; and (3) Pawnee  
 5 has no interest in the Property whatsoever by virtue of the default judgment. (ECF No. 1  
 6 at 7.) Alternatively, Plaintiff seeks judgment declaring that it is a bona fide purchaser  
 7 who took title to the Property free and clear of Pawnee's claimed interest. (*Id.*)

### 8 **III. DISCUSSION**

9 Pawnee moves to dismiss Sphere's claim for declaratory relief and/or quiet title  
 10 for failure to state a claim under Rule 12(b)(6), arguing that as a matter of Nevada law,  
 11 Pawnee maintains a valid judgment lien and thus there are no facts under which Sphere  
 12 is entitled to relief denying Pawnee's rights with respect to the Property. (*Id.*) See NRS §  
 13 30.010; NRS § 40.010 ("An action may be brought by any person against another who  
 14 claims an estate or interest in real property, adverse to the person bringing the action,  
 15 for the purpose of determining such adverse claim.").<sup>5</sup> Sphere argues that it is entitled to  
 16 relief on two separate but connected grounds. First, Sphere maintains that Pawnee did  
 17 not create a valid judgment lien on the property in April 2021 because, although  
 18 Pawnee recorded the judgment as required by section 17.150(2), it failed to record an

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 20 <sup>5</sup>Pawnee argues in its reply brief that Sphere's citation to the Nevada Uniform  
 21 Declaratory Judgment Act is misplaced, and that this Court should instead apply the  
 22 Federal Declaratory Judgments Act, because "[a] request for a declaratory judgment is  
 23 a remedy, not a [substantive] cause of action" and Sphere "has not stated a claim for  
 24 'Quiet Title.'" (ECF No. 23 at 5.) However, Sphere does not present a standalone  
 25 declaratory judgment claim—its request is tied to Nevada's quiet title statute. Actions to  
 26 "resolve competing claims to title and clouds on title are quiet title actions brought under  
 27 NRS 40.010." *U.S. Bank, N.A. as Tr. for Specialty Underwriting & Residential Fin. Tr.*  
 28 *Mortg. Loan Asset-Backed Certificates Series 2006-BC4 v. Thunder Properties, Inc.*,  
 503 P.3d 299, 304 (Nev. 2022). See also *Weeping Hollow Ave. Tr. v. Spencer*, 831 F.3d  
 1110, 1113 (9th Cir. 2016) (citing *Chapman v. Deutsche Bank Nat'l Trust Co.*, 302 P.3d  
 1103, 1106 (Nev. 2013)). "A plea to quiet title does not require any particular elements,  
 but 'each party must plead and prove his or her own claim to the property in question'  
 and a 'plaintiff's right to relief therefore depends on superiority of title.'" *Chapman*, 302  
 P.3d at 1106 (quoting *Yokeno v. Mafnas*, 973 F.2d 803, 808 (9th Cir.1992)). Because  
 Pawnee argues that declaratory relief is inappropriate only on the basis that Sphere has  
 not stated a quiet title claim, in resolving this Motion the Court will consider the  
 substantive validity of the quiet title claim under NRS § 40.010.

1 additional affidavit of judgment under section 17.150(4). (ECF No. 1 at 6-7.) Second,  
 2 Sphere argues that it is a bona fide purchaser because Pawnee failed to impart  
 3 requisite notice to third-party buyers. (*Id.* at 7.) Here, Sphere may be entitled to relief  
 4 even if Pawnee created a valid lien in April 2021. The Court addresses Pawnee’s  
 5 Motion as to each argument.

6 **A. Attachment of Pawnee’s Judgment Lien Under NRS § 17.150**

7 The Court first considers whether Pawnee created a valid lien in April 2021 as a  
 8 matter of Nevada law under NRS § 17.150, the statute governing judgment liens on real  
 9 property. Pawnee argues that Sphere fails to state a claim to remove the cloud on its  
 10 title because under section 17.150(2), Pawnee unequivocally established a valid lien on  
 11 the Property when it recorded its judgment in Washoe County in 2021. (ECF Nos. 1 at  
 12 6-7, 12 at 3.) Sphere responds that Pawnee did not establish a valid lien at that time,  
 13 because it failed to record an additional affidavit of judgment mandated under section  
 14 17.150(4) with information required to “put[] the world on notice of the identity of the  
 15 judgment debtor and the property that is the subject of the lien.” (ECF No. 16 at 3.) The  
 16 Court agrees with Pawnee.

17 Pawnee’s Motion rests primarily on a question of Nevada law—how and when a  
 18 judgment lien attaches under NRS § 17.150. Dismissal is proper under Rule 12(b)(6)  
 19 when a complaint exhibits the “lack of a cognizable legal theory.” *Balistreri v. Pacifica*  
 20 *Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990). While a district court must accept as  
 21 true all well-pled factual allegations in a complaint, legal conclusions are not entitled to  
 22 the assumption of truth. *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009). The Nevada  
 23 Supreme Court has not directly addressed the instant question. “Where the state’s  
 24 highest court has not decided the issue, a federal court must predict how that court  
 25 would decide.” *Sears v. Russell Rd. Food & Beverage, LLC*, 460 F. Supp. 3d 1065,  
 26 1071 (D. Nev. 2020) (citing *Orkin v. Taylor*, 487 F.3d 734, 741 (9th Cir. 2007)). *See also*  
 27 *Goudge v. State*, 287 P.3d 301, 303 (Nev. 2012). When considering a statute, the  
 28 Nevada Supreme Court “ascribe[s] plain meaning to its words, unless the plain meaning

1 was clearly not intended.” *In re Contrevo*, 153 P.3d 652, 653-54 (Nev. 2007). If a statute  
 2 is subject to more than one reasonable interpretation, the Court looks to legislative  
 3 intent to resolve ambiguity. See *Id.* “[R]eason and public policy may be considered in  
 4 determining what the legislature intended.” *Id.* In addition, the high court considers “the  
 5 statute’s multiple legislative provisions as a whole” because “statutory interpretation  
 6 should not render any part of a statute meaningless” or “produce absurd or  
 7 unreasonable results.” *Leven v. Frey*, 168 P.3d 712, 716 (Nev. 2007) (quoting *Harris*  
 8 *Assocs.*, 81 P.3d 532, 534 (Nev. 2003)).

9 NRS § 17.150 is ambiguous to the extent the subsection (2) appears on its face  
 10 to indicate that judgment lien on a debtor’s current and future real property is created  
 11 when a transcript of the original docket or an abstract or copy of any judgment is  
 12 recorded, but subsection (4) imposes an additional requirement that a creditor creating  
 13 a lien on real property “shall record at [the time of the recording of a judgment] an  
 14 affidavit” with more information about the debtor and property.<sup>6</sup> See *id.* The statute  
 15 could be read either to indicate that a lien is perfected according to subsection (2), or  
 16 that a lien does not attach unless or until an affidavit of judgment is filed under  
 17 subsection (4). The Court thus must apply statutory construction principles to interpret  
 18 NRS § 17.150, beginning with the statute’s plain meaning and considering legislative  
 19 intent to predict how the Nevada Supreme Court would decide the issue. See *In re*  
 20 *Contrevo*, 153 P.3d at 653-54.

21 First, taken as a whole, the plain meaning of the text of NRS § 17.150 supports  
 22 Pawnee’s position. Subsection (2) states that “[a] transcript of the original docket or an  
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24 <sup>6</sup>Subsection (4) states that “[i]n addition to recording the information described in  
 25 subsection 2, a judgment creditor who records a judgment or decree for the purpose of  
 26 creating a lien upon the real property of the judgment debtor pursuant to subsection 2  
 27 shall record at that time an affidavit on judgment stating” information including the name  
 28 and address of the judgment debtor; the last four digits of the debtor’s driver’s license,  
 identification card, or social security number; and the parcel number and address of  
 currently-owned real property. NRS § 17.150(4). In addition, “[a]ll information included in  
 an affidavit of judgment recorded pursuant to this subsection must be based on the  
 personal knowledge of the affiant.” *Id.*

1 abstract of any judgment or decree . . . may be recorded in the office of the county  
 2 recorder in any county, and *when so recorded it becomes a lien upon all the real*  
 3 *property of the judgment debtor* not exempt from execution in that county, owned by the  
 4 judgment debtor at the time, or which the judgment debtor may afterward acquire, until  
 5 the lien expires.” NRS § 17.150(2) (emphasis added). Subsection (2) also provides that  
 6 a “lien continues for 6 years after the date the judgment or decree was docketed, and is  
 7 continued each time the judgment or decree is renewed,” unless one of several  
 8 enumerated exceptions applies. *Id.* On its face, this suggests that a judgment creates a  
 9 lien at the moment it is recorded. This plain reading is supported by the fact that  
 10 recording under subsection (2) sets a six-year timeframe during which a lien is valid,  
 11 subject to few exceptions, and this clock is not impacted by the filing of an affidavit  
 12 under subsection (4). *See Evans v. Samuels*, 75 P.3d 361, 363 (Nev. 2003)  
 13 (emphasizing that NRS § 17.150(2) provides a lien will last for six years from the date  
 14 the judgment was docketed); *Leven*, 168 P.3d at 713.

15 Moreover, by the statute’s plain language, a lien created under subsection (2)  
 16 applies not just to a debtor’s presently-owned real property but to property “afterward  
 17 acquire[d]” by the debtor. NRS § 17.150(2). Because real property acquired in the future  
 18 by definition is not yet identifiable by parcel number and address, it is not clear why any  
 19 lien’s initial *validity* must depend upon the recording of this information under subsection  
 20 (4)(c) for the purpose of *notice*, as Sphere argues. (ECF No. 16 at 3.) Rather, because  
 21 subsection (2) plainly indicates that a judgment lien attaches to not-yet-acquired future  
 22 property at the moment of recording, the statute most logically suggests that all liens are  
 23 perfected at the time a judgment is recorded as to debtors—who also independently  
 24 receive notice of judgments under Chapter 21 of the Nevada Revised Statutes.<sup>7</sup> *See*,

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 27 <sup>7</sup>The Nevada legislature amended NRS § 17.150 in 2011 to include additional  
 28 requirements for the affidavit filed under subsection (4), including requiring parcel  
 number and address of currently-owned real property, as well as indicating that  
 information in the affidavit must be based on personal knowledge. *See* 2011 Nev. Laws

1 e.g., NRS § 21.075. This reading is consistent with other provisions of the Nevada  
2 Revised Statutes. See, e.g., NRS § 21.020 (governing issuance of writs of execution  
3 “out of the real property belonging to the debtor on the day when the abstract or certified  
4 copy of the judgment or decree was recorded”); NRS § 68.040 (governing liens created  
5 by judgments rendered in Nevada justice court and stating that when an abstract is  
6 recorded the judgment “becomes a lien upon all the real property of the judgment  
7 debtor” without requiring an additional affidavit).

8 This reading of the statute is also consistent with Nevada courts’ approaches.  
9 While the Nevada Supreme Court has never directly addressed this issue, it has  
10 regularly assumed that recording a judgment under subsection (2) itself creates a valid  
11 lien. See, e.g., *Leventhal v. Black*, 305 P.3d 907, 909 (Nev. 2013) (“[A] law firm can sue  
12 its client and obtain a money judgment for fees due, thereby acquiring, if recorded  
13 [under NRS § 17.150(2)], a judgment lien against the client’s property”); *In re Contrevo*,  
14 153 P.3d at 653-54 (citing to § 17.150(2) as guidance for when a judgment becomes a  
15 lien on real property). Pawnee cites to the single unpublished disposition in which the  
16 court of appeals has considered this question directly, *Secured Holdings, Inc. v. Eighth*  
17 *Jud. Dist. Ct. In & For Cnty. of Clark*, 133 Nev. 1072, (Nev. App. 2017). (ECF No. 12 at  
18 2-3.)<sup>8</sup> There, the court of appeals similarly determined that filing an affidavit under  
19 section 17.150(4) is not a condition precedent to the creation of a valid judgment lien on  
20 real property. (*Id.*) While the affidavit is required, the statute “does not provide that the  
21 lien is invalid if the affidavit is not filed” and does not provide any consequence if an  
22 affidavit of judgment is not recorded. (*Id.*) The state supreme court would likely agree  
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24 Ch. 388 (S.B. 186). The amendment, however, did not clarify or change the  
25 requirements or timing for attachment of a lien. *Id.*

26 <sup>8</sup>Sphere notes that the decision is not binding on this Court and may not be cited  
27 for precedential value according to Nevada Rule of Appellate Procedure 36(c). (ECF  
28 No. 16 at 11.) That rule does not apply to this Court. The Court considers the disposition  
only as to its persuasive value in interpreting how the state high court would rule on the  
issue.



1 that the statute “does not clearly mandate dismissal based on the failure to comply with  
2 NRS 17.150[(4)].” (*Id.*)

3 Sphere argues that the Nevada Supreme Court’s decision in *Leven v. Frey*, 168  
4 P.3d 712, which applies statutory construction principles to a related statute governing  
5 judgment renewals, supports its position that a lien attaches to real property only when  
6 an affidavit is filed in accordance with NRS § 17.150(4). (ECF No. 16 at 13-14.) But  
7 Plaintiff misinterprets the nature of the strict compliance and recording requirements at  
8 issue in *Leven* as they relate to the requirements of NRS § 17.150 because the  
9 “affidavits” at issue under the two statutes are not analogous. In *Leven*, a judgment  
10 creditor timely filed an affidavit of judgment renewal but failed to serve or record the  
11 affidavit according to the timeline set by the renewal statute, NRS § 17.214. See 168  
12 P.3d at 714. The debtor moved to declare void the expired judgment. See *id.* The  
13 Nevada Supreme Court ruled in favor of the debtor, finding that NRS § 17.214 requires  
14 strict compliance with all the renewal statute’s requirements, including timely recording  
15 and service of the renewal affidavit. See *id.* at 720.

16 The Nevada Supreme Court’s decision in *Leven* is consistent with Defendant’s  
17 interpretation that a lien is perfected once the requirements of NRS § 17.150(2) are met  
18 for several reasons. First, the *Leven* Court explicitly reads the renewal statute in  
19 conjunction with NRS § 17.150, and in doing so assumes that a lien on real property  
20 becomes effective according to the requirements of section 17.150(2), without reference  
21 to section 17.150(4). See *id.* at 715 (quoting *Evans v. Samuels*, 75 P.3d at 363) (“NRS  
22 17.150(2) creates a lien on a debtor’s real property in a particular county when a  
23 judgment is recorded in that county . . . .”) Second, and more structurally, the *Leven*  
24 Court interprets section 17.214(2) to require recording a judgment renewal affidavit in  
25 order to perfect the renewal—in addition to merely *filing* that document—because  
26 renewal without recordation would result in liens “automatically continuing under NRS  
27 17.150(2) without any recorded notice.” *Id.* at 717. However, importantly, the affidavit  
28 required to renew a judgment under section 17.214 requires no information beyond that



1 required by section 17.150(2). See NRS § 17.214(1)(a) (requiring, *inter alia*, the names  
2 of the parties; if the judgment is recorded, the name of the county and the document  
3 number; the date and the amount of any payment on a judgment; the exact amount due  
4 on the judgment). The recorded affidavit which perfects renewal of a judgment does *not*  
5 require additional information about debtors or real property analogous to the affidavit in  
6 section 17.150(4), such as the debtor's social security number, driver's license number,  
7 or parcel number. See *id.* This implies that renewal of a lien is not conditioned on such  
8 information.<sup>9</sup> Put another way, it would produce an inconsistent result for a lien on real  
9 property to attach only if an affidavit with complete real property information is filed  
10 under section 17.150(4), while a judgment may be renewed without a requirement to  
11 record or update similarly detailed information to renew the lien associated with the  
12 judgment.

13 The Court thus concludes that the state high court would interpret NRS § 17.150  
14 to indicate that a judgment becomes a valid lien when it is recorded under subsection  
15 (2), and that recording an affidavit of judgment under subsection (4), while mandatory, is  
16 not a condition precedent to the creation of a valid lien. Accordingly, the Court finds that  
17 Sphere cannot as a matter of law state a claim for declaratory relief or quiet title purely  
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21 <sup>9</sup>As the *Leven* Court notes, when the Nevada legislature amended the renewal  
22 statute in 1995 it “focused on requiring that affidavits be recorded to ensure that real  
23 property liens are apparent in title searches.” *Id.* at 716 (citing Hearing on S.B. 455  
24 Before the Senate Judiciary Comm., 68th Leg., at 11 (Nev., May 23, 1995)). It failed to  
25 amend the statute to require additional information in the affidavit beyond that required  
26 to establish a lien under 17.150(2). See *id.* Moreover, when the legislature amended  
27 NRS § 17.150 in 2011 to require additional information in subsection (4) affidavits, it  
28 simultaneously amended NRS § 17.214, but added only that the *document* number of a  
recorded judgment must be included in the renewal affidavit. See 2011 Nev. Laws Ch.  
388 (S.B. 186).

1 on the basis that Pawnee's April 2021 recording did not create a valid lien on Clark's  
2 Property.<sup>10</sup>

### 3 **B. Validity of Judgment Lien as to Sphere**

4 The Court next considers Sphere's alternative claim that it is entitled to  
5 declaratory relief because it is a bona fide purchaser that took title to the Property free  
6 and clear of Pawnee's claimed interest. (ECF No. 1 at 5, 7; ECF No. 16 at 10-11.) In  
7 particular, the Court considers whether Sphere can claim bona fide purchaser status  
8 even if a valid lien attached in April 2021. Again, Sphere argues that "[w]ithout the  
9 recording of an affidavit of judgment [under NRS § 17.150(4)] . . . the world is not on  
10 proper notice of the identity of the judgment debtor and the property to which the lien  
11 pertains." (ECF No. 16 at 14-15.) Pawnee argues that the default judgment recorded in  
12 April 2021 put Sphere on constructive notice of the lien and thus that Sphere cannot  
13 qualify as a bona fide purchaser. (ECF No. 23 at 4-5.) The Court finds that while  
14 recording an affidavit under NRS § 17.150(4) is not a condition precedent to the  
15 creation of a valid lien as to a debtor, failure to record such an affidavit may plausibly  
16 result in inadequate notice to third-party purchasers and prevent a creditor from  
17 enforcing a lien against real property obtained in good faith. On this basis, the Court  
18 finds that Sphere has stated a plausible claim.

19 Under Nevada law, a purchaser of real property with notice of a prior interest  
20 takes the property subject to that interest. See NRS § 111.320; *Buhecker v. R.B.*  
21 *Petersen & Sons Const. Co., Inc.*, 929 P.2d 937, 939 (Nev. 1996). "A subsequent  
22 purchaser with notice, actual or constructive, of an interest in the land superior to that  
23 which he is purchasing is not a purchaser in good faith, and not entitled to the protection

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25 <sup>10</sup>Sphere also seeks judgment declaring that Pawnee's October 2022 re-  
26 recording of the judgment with an additional declaration of judgment did not create a  
27 lien on the Property because Clark did not own the property at the time of that  
28 recording. (ECF No. 1 at 6-7.) There is no dispute that Clark no longer owned the  
property at that time. Pawnee also does not dispute that the October 2022 recording  
had no impact on legal rights to the Property in its Motion, and such an argument is  
contingent on the invalidity of the initial April 2021 attempt to create a lien. Thus, the  
Court will not address the October recording further in resolving this Motion.

1 of the recording act.” *Allison Steel Mfg. Co. v. Bentonite, Inc.*, 471 P.2d 666, 669 (Nev.  
2 1970). NRS § 247.120(1) provides that “each county recorder shall, upon the payment  
3 of the prescribed statutory fees, record separately, in a manner which will allow a legible  
4 copy to be made” specified documents including “transcripts of judgments which by law  
5 are made liens upon real estate in this state.” NRS § 247.190 further provides that “[a]  
6 document acknowledged or proved and certified and recorded in the manner prescribed  
7 in this chapter from the time of depositing the document with the county recorder of the  
8 proper county for record, provides notice to all persons of the contents thereof, and all  
9 third parties shall be deemed to purchase and take with notice.”

10 Whether or not a purchaser of real property performs a title search, “he or she is  
11 charged with constructive notice of, and takes ownership of the property subject to, any  
12 interest such a title search would reveal.” *Adaven Management, Inc. v. Mountain Falls*  
13 *Acquisition Corp.*, 2008, 191 P.3d 1189, 1195 (Nev. 2008). In Nevada, record indexes  
14 are arranged alphabetically by grantor and grantee name, and a party must “search the  
15 grantor index . . . to see whether he or she transferred or encumbered the property  
16 during the time between his or her acquisition of the property and its transfer to the next  
17 person in the chain of title.” *Id.*

18 Here, Pawnee’s failure to record an affidavit of judgment is meaningful. The  
19 automatic constructive notice provided under NRS § 247.190 requires that such a  
20 recording be made “in the manner prescribed” by statute to provide notice of its  
21 contents. Because NRS § 17.150(4) prescribes that an affidavit “shall” be recorded at  
22 the same time as a judgment, and Pawnee did not record such an affidavit, the Court  
23 finds that Pawnee’s April recording of its default judgment falls outside the blanket  
24 constructive notice protection conferred by the NRS § 247.190. This reading aligns with  
25 a common-sense view of legislative intent. The affidavit required by section 17.150(4)  
26 plainly connects information about a judgment debtor—who may, for example, have a  
27 common name and be otherwise difficult to identify through a brief abstract of  
28 judgment—with information about the debtor’s property. The legislature strengthened

1 this connection when it amended the statute in 2011 to require that creditors affirm all  
2 property information included in an affidavit is based on personal knowledge. See 2011  
3 Nev. Laws Ch. 388 (S.B. 186). In short, a primary benefit of requiring a recorded  
4 affidavit of judgment is that it makes it easier for third parties to identify debtors,  
5 associated liens, and currently-owned properties. The Court concludes it would frustrate  
6 legislative intent to find that failure to record an affidavit of judgment is wholly irrelevant  
7 to its consideration of constructive notice.

8 The Court finds that Sphere has alleged enough facts to support a plausible  
9 inference that it had no constructive notice of Pawnee's lien on the Property after an  
10 adequate search. See *Iqbal*, 556 U.S. at 678. It is true that even where Pawnee failed to  
11 record an affidavit of judgment, Sphere is nevertheless charged with constructive or  
12 inquiry notice of a Pawnee's lien that a title search would reveal, whether or not it in fact  
13 conducted such a search. See *Adaven Mgmt.*, 191 P.3d at 1195. But as Sphere alleges,  
14 "the [April 2021] standalone default judgment identified the judgment debtor as 'Donald  
15 Clark, Jr.,' rather than 'Donald Clark' as he was known to Plaintiff based upon the  
16 documents in the sale." (ECF No. 16 at 5.) Absent a properly-recorded affidavit,  
17 Pawnee's recorded judgment did not include any further identifying information about  
18 Clark, such as his social security or driver's license number. (*Id.*) The recorded  
19 judgment did not itself include any information about the Property, such as its APN. (*Id.*)  
20 And it did not include a statement confirming that Clark was the legal owner of the  
21 Property. (*Id.*) Here, Sphere states facts indicating that the only information tying  
22 Pawnee's lien to the Property at the time of purchase was Clark's name itself presented  
23 non-identically across multiple recordings.

24 As Pawnee notes, constructive or inquiry notice may potentially arise when a  
25 party searches the grantor and grantee index and ignoring names with suffixes. (ECF  
26 No. 23 at 5.) See *Berge v. Fredericks*, 591 P.2d 246, 249 (1979) (emphasizing that a  
27 subsequent purchaser is not a good faith purchaser without notice when they possess  
28 facts that would inspire a reasonable person to make further inquiry). But see *Tai-Si Kim*

1 v. *Kearney*, 838 F. Supp. 2d 1077, 1087-88 (D. Nev. 2012) (quoting *Berge*, 591 P.2d at  
2 249) (noting that a subsequent purchaser claiming protection “may rebut the  
3 presumption of notice [of an unrecorded or improperly recorded interest] by showing  
4 that he made due investigation without discovering the prior right,” and that the question  
5 of adequacy of investigation is one for the fact finder). Counties in Nevada vary in their  
6 indexing structures and the appropriate construction of a title search may similarly  
7 vary.<sup>11</sup> Both “Donald” and “Clark” are common names. And in other cases where the  
8 Nevada high court has charged parties with constructive or inquiry notice even where  
9 there are recorded errors in grantor names or where property information is missing in  
10 recorded documents, parties have had more information than Sphere had when it  
11 purchased the Property in the instant case. *See, e.g., Adaven Mgmt.*, 191 P.3d at 1195  
12 (finding that plaintiff had inquiry notice of a prior water right because it had access to a  
13 both a deed of sale and a deed of trust in the grantor-grantee index and the permit  
14 number was included explicitly in the deed of trust).

15 Taking the facts in the light most favorable to the Plaintiff, the Court finds that  
16 Sphere has stated a plausible claim for declaratory relief on the basis that as a third-  
17 party in Washoe County, Sphere did not have notice of Pawnee’s lien and qualified as a  
18 bona fide purchaser for value. *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570  
19 (2007). The Court accordingly denies Pawnee’s motion to dismiss Sphere’s quiet title  
20 claim.

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23 <sup>11</sup>In the context of tax liens on property, while governing statutes differ from  
24 judgment lien statutes in significant ways, courts have come to inconsistent conclusions  
25 about what constitutes a reasonable search of a recording office, including with regard  
26 to errors in names. *See In re Crystal Cascades Civ., LLC*, 398 B.R. 23, 29-30 (Bankr. D.  
27 Nev. 2008), *aff’d*, 415 B.R. 403 (B.A.P. 9th Cir. 2009) (noting that locality—and the  
28 particular manner in which liens are indexed and searchable—introduces salient factual  
questions about adequacy of a search). *Compare United States v. Polk*, 822 F.2d 871  
(9th Cir.1987) (enforcing a tax lien when there was a disparity in record names between  
“Roy Bruce Polk” and “Bruce Polk”), *with Hays v. United States*, 461 F.Supp. 1168  
(C.D.Cal.1978) (finding a superior third party property interest when the notice of tax  
lien misspelled a taxpayer’s name as “Castello” rather than “Castillo”).

1 **IV. CONCLUSION**

2 The Court notes that the parties made several arguments and cited to several  
3 cases not discussed above. The Court has reviewed these arguments and cases and  
4 determines that they do not warrant discussion as they do not affect the outcome of the  
5 Motion before the Court.

6 It is therefore ordered that Pawnee's motion to dismiss (ECF No. 12) is denied.

7 DATED THIS 17<sup>th</sup> Day of November 2023.

8 

9  
10 MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE